

**Idaho Fish and Game Commission
Quarterly Meeting – November 17-19, 2004
Helgeson Place Hotel
Orofino, Idaho**

November 17, 2004

MISCELLANEOUS

Workshop

The commission work session was called to order at 1:05 p.m. by Chair Nancy Hadley. Commissioners Marcus Gibbs, Cameron Wheeler, John Watts, Alex Irby, Gary Power, Wayne Wright, Secretary Steve Huffaker, and staff members were present.

The Director introduced Dr. Kerry Reese new head of the Fish and Wildlife Resources Department at the University of Idaho.

The Director noted that the agenda for the afternoon would include a discussion of upland game birds as well as preference points.

Upland Game Birds

Jeff Gould, Small Game Program Manager, presented an overview of upland game bird biology, research focus, and harvest management principles (Appendix 37, Exhibit 39). There are 13 upland game birds in Idaho, 11 of which are hunted. The upland game management plan, approved by the Commission in 1991, focuses on ensuring survival, improving habitat, emphasizing hunting opportunities, educating the public and reducing landowner/sportsmen conflicts.

Weather has large influences on annual population changes, and habitat determines the long-term trends, particularly with pheasants and sage grouse. There are liberal hunting seasons for species with high reproduction and low annual survival and conservative seasons for species with low reproduction, high annual survival, and who occupy fragmented habitats.

Don Kemner, Upland Game Staff Biologist, presented information regarding Pheasants, Quail, Gray Partridge, Chukar, and Turkey. He covered basic biology of each bird, habitat characteristics, and data that the Department collects on each species and how that is used to set hunting seasons. Director Huffaker discussed distribution of harvest through the season, and pointed out that most harvest is occurring early in the season. Don explained that turkeys have done well because they are early in the introduction process. Other birds did well early in their introduction as well. Idaho is one of the top turkey states in the West.

The Clearwater Pheasant Initiative was discussed. The effort has been focused on a concentrated area for greater impact. If successful, this model can be integrated into Natural Resources Conservation Service (NRCS) programs for a more significant impact. The Initiative is going into its fourth year, and the Department is encouraged by the results so far and is trying to expand these efforts into other parts of state. Annual expenditures are in the range of \$80,000 - \$100,000 per year on this effort.

The state is currently developing a proposal to address the water shortage in southern Idaho by setting aside over 100,000 acres of irrigated cropland in southern Idaho. Once the state finalizes the proposal, it will go to the Joint Finance and Appropriations Committee (JFAC) for approval in the upcoming session as the state may need to provide up to \$3 million. Most funding will come from the federal government who will also have to approve the program. The Department is working with irrigators, legislators, and NRCS to put together match estimates, but federal funding should cover the majority of the costs.

Dr. Jack Connelly, Upland Game Principal Research Biologist, provided an overview of the state's grouse populations, data collection methods, harvest data, and season structures. He explained that sage grouse are very sensitive to any change in conditions, and their habitat in Idaho has been significantly affected by fire, grazing, and other impacts. Although hunting produces additive mortality, current data suggest that a hunting season makes a 5% or less difference for most sage-grouse populations. Detecting an influence on annual survival is not the same as having an impact on the population. The Fish and Wildlife Service will make a decision on listing sage grouse by the end of December.

Jeff Gould summarized by emphasizing that the Department's objective is to maintain simple, consistent seasons and regulations.

Preference Points

Jim Unsworth, Chief, Wildlife Bureau and Brad Compton, Wildlife Game Manager, presented an overview of preference point and bonus point systems (Appendix 37, Exhibit 40). The Commissioners are hearing an increasing number of complaints from hunters who have put in for years and never drawn while they see others draw numerous times over the same period. The question is whether the Commission should address the issue or let the Legislature address it in the event someone sponsors legislation to implement a preference or bonus points system.

Bonus points are weighted points. They never assure a tag but do increase the chances of getting one. In some states, sportsmen can buy bonus points. With a preference points system an individual gets in line and waits to get to the front. Preference points or bonus points do not guarantee that an individual will draw. They do increase the odds that an individual will draw. There is no way to guarantee an individual will draw without limiting the applicant pool.

Commissioner Wright stated his constituents overwhelmingly want a preference or bonus points systems and asked what the Department has done to survey stakeholders. Jim Unsworth indicated the Department has scoped preference points, an extended waiting period, and single

species. The response was split evenly with a third of respondents in favor of each option. Commissioner Wright pointed out that Idaho is the only state other than New Mexico that doesn't have a preference or bonus points system.

Chair Hadley, noted that the bonus points program in Montana didn't necessarily accomplish what the public expected, but it did give the perception something was being done. She expressed her opinion that there is no "silver bullet." The Director added that no single system will solve all the issues and that solving one problem can create another.

The Commissioners agreed to assemble a sub-committee to discuss the issue and bring back a report to the next meeting. They felt they should address the issue rather than leave it to the Legislature.

RULES

Public Hearing

Chairman Nancy Hadley called the public hearing to order at 7:03 p.m. She introduced Commissioners Watts, Power, Wheeler, Gibbs, Irby, and Wright, Secretary Huffaker, and retired Commissioner Fred Wood. Staff introduced themselves. The Director gave an overview of the Agenda for November 18 and 19, and the hearing was opened for public comment.

Shirley Lethcoe, Boise, spoke on behalf of El Ada Community Action Agency in support of reduced license and tag fees for low-income families who rely, in part, on game as their meat source. She thanked the Commission and explained she understands the Department needs income, but noted that out-of-state hunters pay a lot to hunt in Idaho.

Bob Clark, Lewiston, representing the Kelly Creek Fly Casters, gave the Commissioners a letter in support of the Department's fee adjustment proposal and proposal to allow the commission to adjust fees in the future. He noted that the Fly Casters and the Department have partnered on many volunteer efforts, fish conservation, and the Red River Visitor Center. Mr. Clark stated that the Department does a fine job, and their only suggestion is to get more conservation officers in the field.

Hal Coder representing the Lewis-Clark Wildlife Club, presented a letter with their support of the Department's fee adjustment proposal. The Club supports the need to increase license fees and to adjust fees in smaller more frequent increments in the future.

Ed Lindahl, Sagle, commented that the Compass would make the Department subject to more federal control and the influence of environmental organizations. He feels that as a state's rights issue, control of Idaho wildlife should reside with the Commission and the state legislature. He urged the Commission to reject the Compass, and keep IDFG a hook and bullet organization. He asked the Commission to read the white paper prepared by Bill Warren. Mr. Lindahl also mentioned receiving a survey from the Western Association of Fish and Wildlife Agencies that

included questions about recreational hunting. He believes people take exception to that terminology.

Dan Blanco, Self, commented on the Compass and stated that most sportsmen aren't aware of the strategic plan. He believes most people don't want to pay higher taxes or see diminished services for other state agencies in order to make general fund dollars available for Fish and Game. He feels that using state general funds for IDFG will lead to environmentalists and anti-hunting groups seeking a "green" seat on the Commission to become a swing vote. He claimed that sportsmen have concerns with the research used to create the Compass and that the Compass needs an aggressive plan to deal with the threat of animal rights groups who have money and political clout and don't like the agency and want to shut it down. Mr. Blanco commented that indexing means automatic fee increases, and people want to see results before they pay more. He feels the proposal is politically risky and the Department may lose credibility. He expressed concern with nongame programs and expenditures and fears the Department is in danger of becoming less a hook and bullet agency and more a DEQ or Natural Resources agency. He stated there is nothing to prevent people from giving money to the Department to support nongame programs, but he doesn't see that happening. It is the hunters, fishers, and trappers, who support game and nongame animals.

Bill Warren, with EcoSocial Analysts LLC in Moscow, presented findings from his firm's evaluation of the methodology used to produce the Compass and solicit public comment on the plan. Mr. Warren was hired by Concerned Sportsmen of Idaho (CSI). His study, a full copy of which was mailed to Commissioners, found that the survey done as part of the strategic planning process did not employ a systematic random sample, and the content analysis was questionable as it coded comments as positive, negative, or neutral overall even though some comments were negative on certain issues and positive or neutral on others. With respect to the Compass report itself, there was no mention of the methods used to collect data, what the data was, and how it was interpreted, which is standard of scientific publishing and allows an independent evaluator to peer review the study. There was a low response rate and there was no mention of how the sample was selected. Mr. Warren stated that the focus groups and workshops held to gather public input should not have been used to draw overall inferences, and there was no documentation in the report on what type of data was recorded from the focus groups, how the data was analyzed, and how views were prioritized and translated into the Compass. He also noted that in the July meeting, there was no "heads up" to the Commission about these potential "errors." Mr. Warren stated that he is a natural resource sociologist with a PHD in natural resource science.

Rick Wood a non-resident who has hunted the Clearwater Region for several years, commented on the White-Tailed Deer Plan. He expressed concern over the increased pressure on the White-tailed population due to shrinking habitat, new predators – specifically the wolf, more efficient hunters, and the number of hunters in the Region. He doesn't feel the proposed White-Tailed management plan addresses these issues and the plan lacks a comprehensive perspective on what will happen to the species. He believes both the White-tailed and Mule Deer plans should be considered together. He supports the existing plan, and believes the dedicated Clearwater tag is sufficient. He feels any changes should be more restrictive relative to the pressures on the White-tailed population.

Pete Ellsworth, from the Clearwater, commented that the Region has seen a severe decline of elk herds in the backcountry, and the Department should do whatever it can to correct the situation. He also stated that the current Clearwater tag is far better than the proposed White-tailed Deer Plan. He believes private ground will be closed to hunters if the Plan is approved. He also expressed his view that the Commission should not mandate hunter orange. Mr. Ellsworth commented that the Compass is a plan that has something for everybody but no one is held accountable. He opposes any plan that would turn Idaho's hunting and fishing over to the federal government and believes the Compass is a degradation of Idaho sportsmen.

Keith Lawrence, Director of the wildlife program for the Nez Perce tribe commented as a participant of Senator Crapo's Elk Collaborative. The tribe formally endorsed the recommendations, the result of 12-18 months of work. He explained they did not find a direct linkage to a single problem. However, the problem was characterized by a lack of calf recruitment, and research points to inadequate nutrition as being the root cause. The Collaborative found that there should be more burning, especially in the backcountry. Their recommendation is to burn 50,000 acres per year for a 12-15 year management cycle predominantly in roadless or wilderness units. They feel the recommendation is reasonable but significant over time. If the Commission endorses the recommendations, they need to get that into the planning process through the Forest Service and do the technical analysis. The recommendation also needs to be reviewed in the context of what the implications might be for ESA, fish recovery, clean air, etc.

Doug Gober of the Clearwater National Forest Service spoke in support of Senator Crapo's elk Collaborative. The Forest Service operated in an advisory role, and Senator Crapo asked the Service to look at the Collaborative's recommendations and see what they could accomplish. The recommendations include: 1) prescribed burning, wildfires, and logging; 2) noxious weeds; 3) habitat restoration; 3) game and population management; 4) predator management; 5) access management. The Service feels the recommendations are practical and possible to implement. Some can be done right away and will not take additional funding, staff, or analysis. The tool that will accomplish the most in terms of habitat changes are wildland fires. This will help make up for decades of fire suppression, which has not provided new forest growth elk need to flourish. The Service has the ability to manage wildfires on a large scale and plans to take advantage of summers with good burn potential. They also have several thousand acres of shrub ready to be cut, which provides good forage. Many of their efforts depend on funding. Mr. Gober clarified that the recommendation from the Collaborative was to determine what the Forest Service can do now and then bring it forward and see if it can be incorporated into the forest plan for the long term.

Rhetta Green spoke on behalf of low to moderate-income families in support of the family survival package. She stated that Idaho ranks fourth in the U.S. for hunger. She believes that because the state has deer and elk that are dying of starvation, low-income families should be able to harvest that game for a fee they can afford.

Darvin Pitcher, Kamiah, commented on declining elk herds. He works in the backcountry and sees fewer deer, elk and moose, and more wolf tracks. He feels that game is being crowded out. White-tailed Deer are run down onto private property where people can't hunt. The Department needs to focus on game survival and providing more forage. He commented that it won't do any good to

have a family survival package for low-income hunters if there isn't any game or they can't get to the game.

John Walters, Avery, gave the Commissioners a letter from Ron Gillett of the Idaho Anti-Wolf Coalition. Mr. Walters read the letter, which expressed concern regarding management of the Canadian gray wolf in Idaho.

Judy Gardner. Supports the survival package for low income. Elk for years in Grangemont and see them all the time and suddenly seeing 5 cows and maybe 1 baby. Go for drives and count deer and elk. Used to see 100, now see 20. Don't know why, but there is a problem.

Jim Hagedorn, Viola, representing Concerned Sportsmen of Idaho, commended the Commission on taking a more active role in giving the Department direction. He stated that there is not a biological reason underlying the White-tailed Deer Plan and reminded the Commission that Concerned Sportsmen of Idaho were first to bring a White-tailed Deer plan to the Commission. That plan was turned down, and the Clearwater Deer tag was formulated. The Clearwater Deer Tag system is not broken, and until we can work together on White-tailed and Mule Deer management plans, stakeholders won't support the effort.

Marge Eckerman, Orofino, spoke on behalf of ICAN in support of the family survival package. She ceded the rest of her time to Buck Jared.

Buck Jared, Weippe, representing Idaho Community Action Network, supports the family survival package. He stated that ICAN went to the Legislature with a suggestion, and lawmakers said they would support the effort, but to go back to the Commission. He delivered cards from people who support the proposal.

Barry Wood, Gooding, asked the Commission to reject the White-tailed Deer plan, He feels the plan needs to be evaluated against the Clearwater tag and in the context of the comprehensive Mule Deer plan. One of the unintended consequences of the plan is that it gives hunters an opportunity to hunt Mule Deer and if they aren't successful, they come to the Clearwater to hunt White-tails. He suggested making the plan more restrictive so that hunters will have to make choices about where to hunt and what to hunt.

Jolene Poen from Downey, Idaho, spoke in support of the family survival package. She commented that her family hunts, but they can afford only the hunting license and not the combination hunting and fishing license. She also mentioned that it is difficult for people without ATVs to compete with hunters using ATVs. Ms. Poen also mentioned the salvage meat program and stated that salvage meat does not feed families. Her family has received only two small deer and 50 pounds of elk meat.

Ron Matthews, Chair of Nampa/Caldwell ICAN, and Anna Walling, Caldwell, spoke in support of the family survival package. Mr. Matthews stated that he addressed the IDFG Commission three years ago and was well received. He presented statistics on poverty levels in Southwest Idaho and will send a letter to the Department with that information. In a survey of their members, 290

people out of 320 responses said they would purchase a \$50 combination license (survival package). Mr. Matthews stated that if this package were made available, the Department would see a loss of \$15,000, but would feed about 8,000 families in the state.

Rich Tuck, Moscow, with Concerned Sportsmen of Idaho and the Clearwater Elk Recovery Team, spoke regarding the Elk Collaborative. He stated that both Senator Crapo and Representative Otter want the recommendations included in the forest plan. He said the Forest Service plans to take out elk, deer, and moose as management indicator species in the forest plan. He asked for a letter from the Commission, signed by the Governor, to be sent to the Secretary of Agriculture protesting those plans. He asked for the Commission to approve the Collaborative's recommendations and request they be included in the Forest plan. Mr. Tuck provided an overview of the decline of the elk population in the Clearwater Region. He met with Representative Otter regarding the Department's objectives for elk recovery. He stated that efforts have been negated by wolf reintroduction and that population surveys show a steady decline. The problem is habitat and predators. Mr. Tuck stated there are too many wolves in the Clearwater, and he wants the Department to manage wolves by regions.

Tim Roehr, Orofino, spoke in support of family survival package. He asked that the Department consider depredation hunts for the families with less money and less ability to hunt. Depredation hunts lengthen the season and fills the freezer when it is more needed. Encouraged the Commission not to look at just licenses that lose money, but look at people who will contribute the \$5-\$10 to the economy for supplies, which helps the community.

Joseph Peterson, Kamiah, thanked the Commissioners who toured the Flying B Ranch this spring. He appreciates the set aside for non-residents and the outfitted public, and it is important to have a stable business platform. Out-of-state money is important in small communities. He observed that the non-biological rule on conical bullets for muzzleloaders increases the effectiveness of the kill. He mentioned the White-tailed Deer Plan would provide protection against influx of hunters into the Clearwater Region late in the season. Concerns raised in focus groups included trespassing, trophy quality, and depredation, and he would like the Department to address those. He stated that concerns regarding the Strategic Plan are valid and asked the Commission to carefully consider the goals.

George Dovel, Horseshoe Bend, provided copies of the *Outdoorsman* containing an opinion article he wrote regarding the Compass. He has done a lot of research with Mule Deer and asked the Commission to consider his findings. He stated that the state has a disaster with the Mule Deer population that needs to be addressed.

Nate Helm, Director of Sportsmen for Fish and Wildlife, thanked the Commission for their direction on the Mule Deer Initiative and said their membership is pleased with what they see for the future. They would like to see the Department stay focused on the regions currently identified rather than getting too broad. They encourage the use of predator management targeting specific areas such as fawning areas. They are also interested in gathering baseline data and doing a cost benefit analysis of winter feeding and offered SFW's assistance as a resource. Mr. Helm expressed SFW's skepticism regarding the fee increase and relayed that the SFW board does not support

indexing. Mr. Helm also commented that SFW still has concerns about the Compass and fears the Department may stray from its focus on hunting and fishing due to societal pressure from outside the state. SFW is also concerned about potential conflict for resources between game and nongame species. SFW is concerned the White-tailed Deer plan will create a divide and conflicts between property owners and the hunting community.

Penny Wilson, Reubens, spoke in support of the family survival package. She mentioned that she has permission to hunt on private land, but can't afford a license and tags.

John Walters, Avery, reminded Commissioners that public testified against the Compass at the July meeting in St. Maries. He noted that there was nothing about that testimony on the web site. He commented that elk and deer are being decimated by wolves and the Commission has not done anything to address that. He would like to see the Commission push RS2477 as far as possible as a means to obtain access for the public with no cost. He doesn't want to see Access Yes! paying for accesses illegally closed to the public.

Barb Updahl, Pierce, wanted the Commission to know how exciting it is to drive around Pierce and see the town full of hunters, the motels full, and restaurants booming. For an economically deprived community it is very exciting to see so many hunters and fishermen in the Orofino area.

Chairman Hadley thanked the public for attending and for their comments. The hearing adjourned at 9:07 p.m.

November 18, 2004

The Commission meeting convened at 8:03 a.m. with Commissioners Hadley, Watts, Irby, Gibbs, Wright, Power, and Wheeler present.

MISCELLANEOUS

Agenda Changes

A discussion of the 2005 meeting calendar was added as Agenda Item #25a. A discussion to discuss controlled hunt drawing odds was added as Item # 13a. Commissioner Watts requested an update on the state's sage grouse plan. This item was added to the Director's Report. A discussion of the Fiscal 2006 budget as it pertains to the fee increase was added to Agenda Item #12. Commissioner Watts requested a discussion of the WAFWA survey, which was added as Agenda Item #25b.

Review of Public Comment

Chair Hadley noted the great turnout at the meeting. Commissioner Irby pointed out that the

Commission has been approached previously by ICAN, and a low-income option will continue to be an issue. He stated he is not in favor of the \$50 package, but suggested having more discussion with ICAN. Chair Hadley agreed that the Department needs to meet with ICAN and discuss pros and cons. She noted that if the Department provided a discounted package to low-income families, other license buyers would have to pay more. Commissioner Irby noted that there is a lot of meat from depredation hunts that could be made available.

The Chair asked for a status update in January on wolf monitoring and efforts to capture packs that aren't being recorded and how the Nez Perce Tribe is doing with management efforts.

The Chair noted the comments on the Strategic Plan. That topic is on the meeting agenda for an hour and can be extended if necessary.

DIRECTOR'S REPORT

Topics in the Director's Report to the Commission included:

Sage grouse: The Fish and Wildlife Service will make a listing decision by December 29. The State of Idaho has submitted a compendium of all local working group plans and the guidelines managing sage grouse in areas where there is not a local working group process. The state plan was written and has been reviewed but is still a work in progress. The Director and Jim Caswell at the Office of Species Conservation have agreed to do a science review similar to the one done on slickspot peppergrass. This involves convening a group of experts on range biology to go through limiting factors for Idaho populations and then rank those as to threat as well as to discuss how to address unresolved issues. This review will probably get underway after the first of the year. After FWS announces its decision, the Department will determine the need for a conservation agreement, candidate conservation agreement, or safe harbor. A copy of the Plan is available from Tom Hemker. Director Huffaker explained that the intent is to let local groups do what they can. Their input was not ignored or changed and is part of the package submitted to FWS. He clarified that the Statewide plan is for those areas where there are no local working groups or management scenario in place.

Gray Wolf Classification: Deputy Attorney General, Dallas Burkhalter, received a letter from the Idaho Farm Bureau strongly opposing the classification of the gray wolf as a big game animal and requesting the classification be changed to managed predator. They believe that classifying wolves as big game animals will not allow trapping, snaring, or aerial shooting of wolves. The Director believes that a state law that allows aerial gunning of wolves is not realistic or politically wise as wolves are a listed species. The first step is de-listing and then deal with who controls the population and how. The Commission can decide what method of big game population control is necessary. Commissioner Wheeler commented that the state's wolf management plan has already determined how wolves will be treated and should be adhered to as agreed. He asked about the status of the 10(j) rule, which classified wolves as experimental and non-essential and allows for greater flexibility in wolf management. The Director explained that the Denver region has reviewed public comment and submitted their proposal to Steve Williams

at FWS who will review and take it to the Department of the Interior for publication in the Federal Register. This should occur in January. There has been no progress on the Wyoming lawsuit, which is still awaiting a hearing.

Information and Education: The Director will be attending the IAFWA National Education Summit in early December. All state directors will be there to discuss wildlife education. He will then return to Boise to chair the IGBC winter meeting. The Recreational Boating and Fishing Foundation (RBFF) has been working on best management practices for education and working on angler retention and recruitment. The Department has received a grant and staff will be working with RBFF to develop a pilot program over the next year.

The Director passed around a publication abstract that addresses census methods and how big game are counted. The paper was done based on Colorado's experience where sportsmen's groups argued with their fish and wildlife department regarding the census numbers and survey methods. There are two takeaways from the experience: 1) IDFG's experiences aren't unique, i.e. people don't trust government 2) Colorado looked at all systems in place and took Idaho as the gold standard to compare their methods with; their abstract is a scientific review of how that worked. Commissioners can get the entire paper from the Director.

Non-resident license quota litigation: There is a white paper from IAFWA on the lawsuits regarding non-resident tag quotas. The issue is spreading to South Dakota and Nebraska, but there may be legislative action to address it. The Director believes Idaho is less vulnerable than other Western states because Idaho has a large number of open hunts, and the quota is irrelevant, because not all the non-resident deer tags available are sold. Idaho's outfitting and guiding situation is unique because of limited entry and territories. Idaho may be vulnerable on caps on special hunts. That is what the group targeted in the Arizona situation, and there is now case law on the books. The Commission and the Director are liable under the law and can be sued as a group or as individuals, which is what happened in Nevada and is likely in Montana. It is up to the Commission whether to react. The Director explained that Wyoming, Nebraska, and Minnesota are all in various stages of litigation and federal court goes slowly. Wyoming has been waiting for 8-10 months and isn't anticipating anything soon. The 9th circuit decision is on the books. If the 10th circuit comes up with a different remedy or opinion, that makes it a status that can be elevated to the Supreme Court. A resolution will likely take years. Legislation is being discussed in Washington, DC. The Director suggested that the Commission consider the issues and options when as part of the discussion of caps on out-of-state licenses.

MISCELLANEOUS

Commission Reports

Clearwater Region: Commissioner Irby reported meeting with Jack Bird on obtaining a ten acre flood easement for the donated Deyo Reservoir site by Weippe. Steelhead fishing is good. Business is picking up in Orofino with the influx of anglers and deer hunters. Hunting reports

are good. The Jack O'Connor steering committee is actively pursuing donations for a collection of trophy animals to establish a \$1,000,000 trust fund. The collection will be housed at Hell's Gate State Park. The Citizens Against Poaching (CAP) trailer was well received at the Latah and Nez Perce County Fairs, and the Commissioner was happy to hear that the Department may construct another CAP trailer for northern Idaho. Commissioner Irby hopes the Commission will support the recommendations of Senator Crapo's Elk Collaborative. Good comments are being made about the Clearwater Region's youth clinics. This past month, there were youth steelhead and pheasant clinics. A youth goose clinic is scheduled in December. Commissioner Irby received a letter from the Kelly Creek Fly Casters supporting the fee increase, and he has heard that Three Rivers Chapter of Trout Unlimited and Lewis-Clark Wildlife Club have voted to support the fee increase. He encouraged fellow Commissioners to meet new legislators before the session begins to update them on issues.

Upper Snake Region: Commissioner Wheeler reported that the Region had an uneventful fall. Overall deer hunting activity is a little down, but there have been some changes in check station locations. The Region is doing studies on goats and pronghorn antelope. Overall things are going well. There is a lot of effort on Mule Deer Initiative and they have done some workshops on regeneration of aspen. The Region is working in cooperation with the Forest Service, and contacts have been made with Department of Lands. The Commissioner had an interesting time on the South Fork shocking fish. The Commissioner spent half a day on the Tex Creek WMA and innovative efforts are being made there to hold Elk and keep them from going into Idaho Falls. These efforts have Mule Deer ramifications as well. Tex Creek had an excellent year for moisture and there is an unbelievable amount of forage. He saw a lot of moose. Commissioner Wheeler would like to see an hour set aside at each meeting to discuss issues and set agenda items for upcoming meetings.

Southwest Region: Commissioner Watts has spent time with Representative Corder on winter feeding, which is a big issue in Region 3 particularly in the Garden Valley area. Representative Corder has some excellent documents put together by Communications on why and how the Department does winter feeding. Commissioner Watts has heard lots of kudos for the Department on youth hunts. He participated in a youth hunt on at the Boise; there were 42 kids ages 14 and under who participated. Commissioner Watts would like to hear from other Commissioners on what usage is for their WMAs and what the vision is for them. Region 3 is unique due to the number of people, and the Region is running out of space to hunt birds. There is pressure to take a different view of WMAs not just for showcasing the ideal habitat situation but more about recreation and hunting opportunity. Commissioner Watts went to a number of Sage grouse meetings and acknowledged Art Talsma of The Nature Conservancy for his efforts in Owyhee County. Steelhead were released in the Boise River in November. He made a presentation recently on the economics of hunting and fishing, and feels it is important to connect the economy to hunting and fishing. Hunters want the Department to explore advanced technology in their weapons. There seems to be one or two problem cougars around the Cuprum area on the edge of Region 3, which may be weather related. There was a report of wolves in Boise eating a deer outside city limits, but it turned out to be a pack of dogs.

Southeast Region: Commissioner Gibbs reported that in Region 5 things are pretty normal. They had a very successful elk hunt, some muzzleloader hunts are on, and a few cow hunts are still open. People have been happy with the elk hunt. Population dynamics may be creating problems with ranchers, i.e. too many elk competing with livestock. The deer hunt has been relatively average. People are seeing a lot of deer but mostly shooting yearlings (2 point bucks). Bucks in the Big Buck contest are better this year, with some 30" bucks. Some good deer are out there. The waterfowl season is very dismal. The weather has been good and water isn't frozen. The reservoir situation is the lowest on record in eastern Idaho. Fish were ready for the Blackfoot Reservoir but were held at the hatchery and then had to be planted in the River. The Regional fish biologist is struggling with finding where more opportunities may exist. The Region has had at least 5" of rain since October 1 that should help. The one population of Sage grouse Commissioner Gibbs has been watching for eight or nine years is doing the best he has ever seen.

Magic Valley Region: Commissioner Wright reported that Region 4 had a good deer season. The majority of harvest has been forked horns, which bodes well for next season. Body condition of animals observed at check stations was good. The Commissioner spent time with Gary Hompland and Dave Parrish in Unit 56 and was very impressed with Gary's PR work in promoting the Department. Elk harvest is up and better than previous years, reflecting improved habitat and improving drought conditions. There were two incidents of Elk locking horns in the Region. In the Picabo area, two bulls locked horns, and a Department official shot their horns with slugs from a shotgun to free them. In another instance on the Idaho/Nevada border, a rancher denied access to a Nevada Fish and Game officer and the animals died. There has been a decrease in wolf complaints, probably due to hunter success. Sage grouse have been somewhat below average. Wet weather caused the birds to disperse away from water holes – making them less vulnerable to hunters. Forest grouse, sharp-tail, and chukar hunting has been "spotty." Drought continues to be a problem. The bright-spot has been Salmon Falls Creek Reservoir. The Department has been supplying the Reservoir with hatchery fish. Some fly fishermen are angry because the Department didn't supply as many fish as last year. After a couple of sub-standard years, the fisheries in the Big Wood and Silver Creek are doing quite well due to cooler water temperatures and more water. The Region is in the process of constructing their new office. Weather and construction issues have put them about 3 weeks behind schedule.

Salmon Region: Commissioner Power reported that Flying B reported elk hunting is better than in 20 years. Several large bulls have been taken. The Region had a good water year, which helps cattlemen and BLM relations and is good for hunting. He reported on a Utah hunter who was fined for wasting and six hunters from Pennsylvania were fined for wasting and spent five days in jail. Two Burley hunters were also fined for wasting. This is an indicator that hunting is good, but Enforcement has a lot of work when hunting is good. The Moen property acquisition has been finalized with The Nature Conservancy (TNC), and there will be negotiations coming up. This will provide an opportunity to open about 1 ½ miles of the Pashimeroi for fishing access. Fisheries has been working on marking fish and are getting good information on fish movements. The screen program went into a mode several years ago of screening for all fish, not just Salmon and steelhead. They are working on reconnectivity on streams on the main Salmon River. They are picking up some nice rainbows and a few cutthroats on the mainstem. Steelhead fishing is running about 9 hours per fish below North Fork.

Panhandle Region: Chair Hadley reported an excellent elk season in the Region, but the harvest was not very good due to rain and fog. The Region is finding that they are seeing fewer week-long camps and more weekend hunters. This makes hunting more weather dependent. The Elk population is good, and people are seeing a lot and sign. There was a hunting accident in the Region. A 45 year old hunter was shot at close range and they have not found the shooter. This prompted the addition of hunter orange on the agenda. There was another meeting on Lake Pend Oreille and are still working through the process. The Commissioner attended a Bonner County sportsmen's meeting and had a lively discussion on fee increase and wolves. Enforcement is working hard with running check stations and helping the border patrol in watching the Canadian border. The Region is working with the Forest Service on mud-bogging, which causes habitat and neighbor problems. The Sandpoint Water Life Center is moving forward and many community groups are working on the project. They are still collecting funds for the viewing window.

Commissioner Wheeler mentioned that Upper Snake Region's general cow season started the first of the week, and people were concerned about the harvest because of the snow. The snow forced the Elk down but then it melted. The first two days were very successful, and the hope is it will change tendencies of elk and assist with the Mule Deer project.

MISCELLANEOUS

Election of Commission Chair and Vice Chair

Commissioner Irby requested this item be postponed until tomorrow to give the nominating committee a chance to meet. He agreed to head the nominating committee. This action was moved to Agenda Item #28.

CONSENT CALENDAR

The November Consent Calendar contained the minutes of the July 1, July 7-9, August 24, and October 13 Commission meetings.

04-75 Commissioner Gibbs moved and Commissioner Wheeler seconded a motion TO APPROVE THE MINUTES OF THE JULY 1, JULY 7-9, AUGUST 24, AND OCTOBER 13, 2004, COMMISSION MEETINGS. The motion carried in a unanimous vote.

REPORTS

Fleet Management Progress Report

Steve Barton, Special Assistant to the Director, presented information on the progress of the Department transition to a Fleet Management System (Appendix 37, Exhibit 41).

The Department received authorization and funding from the Commission in October 2000 to implement Fleet Management to address equipment maintenance and safety issues.

The goals of Fleet Management are to provide safe equipment to employees, assure equipment is properly maintained, optimize equipment replacement on a defined schedule, reduce overall operational and replacement costs, maximize equipment repairs using the manufacturer's warranty, and reduce overall fleet size by using a life-cycle costing approach.

The Department is currently 2 years into an 8-year phased transition. Thus far, the system has proven successful in reducing the number of vehicles overall. Auction values and fleet efficiency have increased while maintenance costs have decreased. Overall, the Department has met expectations with the new fleet system and is in the process of switching over most motorized vehicles to the internal fleet system, which includes fixed leasing cost, and per mile or per hour variable cost.

The fleet life cycle is based on the best time to replace vehicles according to commercial fleet standards. The maintenance costs goal is in 3 cent range, which is maximized by replacing vehicles at 70-75,000 miles. The Department also realizes lower capital costs based on a reduced number of vehicles and insurance costs.

The intent is to present the Fleet update as part of the Department's presentation to the Joint Finance and Appropriations Committee in February. Commissioners felt it was a good story to tell and suggested creating a brochure with the facts and figures for distribution to JFAC, other legislators, and other agencies. The Commissioners requested a copy of Steve's presentation.

ABC and GTECH Updates

Jim Lau, Chief, Bureau of Administration, updated the Commission on the revision of the ABC coding system implemented in 2000. This system was implemented with outside programmers and consultants to gather information on Department activities. However, the system is quite costly to operate. The revisions take the system from a 12-digit code to a 4 digit code and still captures the relevant information. This will result in cost and time savings and allow the Department to use other state systems such as electronic time sheets and purchasing cards that previously could not accommodate 12-digit codes. The new system also realigned activities with strategic objectives. The goal is to implement the new codes by January 1.

Mr. Lau updated the Commissioners on the IWILD system. The Department has spent significant time with GTECH, and progress is being made to address issues. GTECH has visited vendors to realign satellite dishes, and alternate licensing procedures have been created in the event the satellite receivers are down. Total redundancy of the system is not financially feasible, but manual forms are available at regional sites and phone and internet capability are available as well.

Commissioner Power pointed out that problems often occur on weekends or holidays and regional offices are not open. Jim explained that allowing vendors to simply print a license without validating and then validating after the fact is expensive. Alternatives are being explored, but a fix may not be implemented until after GTECH's contract expires in 2006. The Department will send out requests for information to see what capabilities other vendors have at the end of November.

Commissioner Wheeler stated that some vendors feel the system does not have enough capacity. Mr. Lau explained that it is a robust system and does allow for flexibility in programming, which is important given that Idaho's regulations and combination of licenses is far more complex than other states. Steve Barton added that unlike the previous hard-wired system, the satellite system can be set up anywhere and allows the Department to be more proactive in addressing non-resident customers needs. The Department will likely see a net savings in communications costs with the satellite system vs. phone lines.

Commissioner Gibbs pointed out that historically the system failures have occurred on large volume weekends when regional offices are not open, and hunters and anglers should have the ability to at least get a piece of paper to allow them to hunt or fish and then leave it up to a technician to solve the problem later. Mr. Lau pointed out that anything is possible; the question is how much you spend to get what you want.

Chair Hadley suggested an emergency procedure to issue licenses if the system is down and list the options -- Regional office, by phone, on the Internet. The Department will take the Commissioners' suggestions back to staff for discussion.

Commissioner Wheeler asked if the licensing system should be reconsidered if it is so complicated and difficult to work with. The Director noted that the issue comes up each time the Department creates a new class of license and additional level of complexity. It is a matter of staff time and cost. Commissioner Gibbs expressed his opinion that the Department should not apologize for the complexity or use that as an excuse, but require the contractor to design a system to handle it.

Mr. Lau also provided an update on the recent paper issue with GTECH. Licenses or tags are fading. Several hundred faded to point where they were unreadable, which has created difficulties for Enforcement. The Department has had conversations with GTECH, but it has turned out to be a complicated problem. There is incompatibility with plasticides in the pouches that may be wicking the moisture out of the paper. The problem has been minimized with cooler weather, but there is no permanent solution yet. There are procedures to replace the documents.

RULES

Brad Compton, Wildlife Game Manager, presented the Department's recommendation for nonresident deer and elk tag set asides and quotas.

04-76 Commissioner Watts moved and Commissioner Wright seconded TO ADOPT AS TEMPORARY RULES FOR THE YEAR 2005, RULES GOVERNING LICENSING,

IDAPA 13.01, CHAPTER 04, RULE 500, NONRESIDENT DEER AND ELK TAG OUTFITTER SETASIDE AND RULE 600, NONRESIDENT DEER AND ELK TAG QUOTAS:

TAG TYPE	NON-OUTFITTED	OUTFITTED	TOTAL
Regular Deer	10,900	1,900	12,800
Southeast Deer	1,115	85	1,200
Total Deer	12,015	1,995	14,000
Total Elk (All Zones)	10,415	2,400	12,815

THE TEMPORARY RULES WILL BE IN EFFECT UNTIL APPROVED BY THE LEGISLATURE AS PERMANENT RULES.

Commissioner Wright asked if the outfitters are satisfied with these numbers. Mr. Compton indicated that over the last 5 years, tags numbering in the hundreds have not been used by outfitters, and those revert back to the Department for sale as regular non-resident deer and elk tags.

Grant Simonds, from the Idaho Outfitters and Guides Association explained that the system goes back to mid-80s when there was more demand for non-resident tags. The numbers originally were generated by looking at the number of tags historically used by the outfitting industry. The outfitters and guides industry appreciates the set aside, and it works well. The Director noted that the policy issue is litigation exposure on elk tags, but the Department likely could have sold, a few hundred more elk tags. Commissioner Watts clarified that the non-resident quota litigation has nothing to do with the outfitting industry.

The motion passed by a unanimous vote.

Ratification of Rules Adopted by the Commission.

Dallas Burkhalter, Deputy Attorney General, presented the temporary and proposed rules adopted by the Commission. These need to be adopted as pending rules so that they will be reviewed by the Legislature in the upcoming session. If they are approved, they will become final rules.

04-77 Commissioner Irby moved and Commissioner Wheeler seconded a motion TO ADOPT THE FOLLOWING PROPOSED RULES AS PENDING RULES:

- 1) 13-0102-0401 Public Safety (Hunter Education)**
- 2) 13-0104-0401 Licensing**
- 3) 13-0106-0401 Classification and Protection of Wildlife**
- 4) 13-0107-0401 Upland Game Animals**
- 5) 13-0108-0401 Big Game**
- 6) 13-0109-0401 Game Birds**
- 7) 13-0111-0401 Fish**
- 8) 13-0112-0401 Commercial Fishing**
- 9) 13-0113-0401 Migratory Birds (American Crows)**
- 10) 13-0114-0401 Falconry**

- 11) **13-0116-0401 Trapping**
- 12) **13-0119-0401 Operating, Discontinuing, and Suspending Vendors**

Commissioner Wheeler asked for clarification on rule docket #1. Mr. Burkhalter explained that this was the online hunter education course approved by the Commission last December/January.

The motion carried in a unanimous vote.

LEGISLATION

2005 Legislative Proposals

Steve Barton, Assistant to the Director, summarized public input gathered from meetings with groups throughout the state regarding the Department's proposal to increase fees and allow the Commission to set fees by rule (Appendix 37, Exhibit 42). He stressed that incremental increases would not be automatic, and that the Department is still in the process of talking to sportsmen and collecting feedback from the public.

The Governor's office has requested a FY '06 budget that equals estimated FY '06 revenues, not assuming a fee increase. To achieve this, the Department will review programs to cut \$2 million out of base operations. The Governor's office will proceed with the fee increase bill, and if it passes, a trailer appropriations bill will be created to reflect the increase in revenues. The Department will report back to the Commission on the revised budget.

Mr. Barton noted that current base operating expenditures exceed current income assuming no fee increase for FY '06. The enhancements to Communications, Enforcement, Access Yes, etc. have been removed from the FY '06 budget, and the \$2 million reduction is additional. Assuming status quo, the Department will use up the entire budget stabilization fund in the next fiscal year. Current cash flow does not cover expenditures, and the Department is already managing cash to meet payroll and accounts payable.

The 13.7% fee increase is sufficient to catch up with the cost of doing business and to provide some additional funding for Access Yes, the Mule Deer Initiative, and other enhancements for FY '06 only. Director Huffaker stated that the Department should proceed with gaining sportsmen support for the 13.7% increase but not proceed with the proposal on incremental fee increases by rule.

Commissioner Wheeler stated that the Department should be proactive on projects such as the Mule Deer Initiative and show results. He feels people are willing to support the Department and fee increases if they see leadership and successes.

Further discussion and action was deferred until the afternoon session.

MISCELLANEOUS

Shikar-Safari Club International Officer of the Year Award

The Shikar-Safari Club International honors an outstanding “Wildlife Officer of the Year” for each of the 50 states. Director Huffaker is a past recipient of this award, which recognizes an officer who has shown exemplary performance of his or her duties in the protection of wildlife, enforcement of game laws, and implementation of conservation programs. Jon Heggen, Chief, Enforcement Bureau introduced Bob Hitchcock, President of the Shikar-Safari Club International.

Mr. Hitchcock gave a brief overview of the history of the club, which started in Chicago in 1952 as to discuss hunting in Africa and Asia. The Club’s foundation funds conservation projects in the U.S. and Africa.

Mr. Hitchcock read from the nomination letter submitted by Jon Heggen and presented the 2004 Shikar-Safari Club International Idaho Fish and Game Officer of the Year Award to Mark Rhodes, Senior Conservation Officer, Clearwater Region. The presentation included a plaque, a plate and a pin. In addition, the award includes \$10,000 life insurance policy for the officer. Officer Rhodes thanked Mr. Hitchcock and the Club for the honor.

REPORTS

Access Yes! Marketing Plan / Lottery application sales

Brad Compton, Wildlife Game Manager, presented an update on the Access Yes! Lottery Program (Appendix 37, Exhibit 43). In total, 40 Super Tags including 2 Super Slams were offered during 2 application periods in 2004. Even though the offering did not receive a lot of exposure this year, nearly 30,000 applications for Super Tags and Super Slams were sold, which generated over \$162,000.

The Fish & Game Advisory Committee recommends, and the Department concurs, that the special controlled hunt program be continued and that additional marketing strategies be implemented to maximize income for *Access Yes!*

The Department has developed a marketing strategy based on input from marketing experts with the Idaho Lottery and Department of Agriculture. The Department will try to get a confidentiality release from applicants for publicity purposes and will work on developing a message that will create recognition and interest. The name will be changed to Super Hunt and Super Hunt Combo. The Department will also leverage vendors who can help market the program and will target marketing efforts to specific audiences. A small percentage ($\leq 15\%$) of special controlled hunt funds would be used for radio spots, brochures and posters, and vendor recognition.

Commissioners discussed the possibility of reducing application fees and setting a percentage or ceiling on applications. Commissioner Watts mentioned the need for the Department to develop a better mechanism for drawing winners. Mr. Compton indicated the Department is looking at a digital solution. Commissioner Power suggested using the landowners who participate in Access Yes! for promotion purposes.

04-78 Commissioner Gibbs moved and Commissioner Watts seconded a motion TO ADOPT SPECIAL CONTROLLED HUNT RULES AND TO DIRECT THE DEPARTMENT TO USE A SMALL PERCENTAGE OF FUNDS GENERATED FROM THE SPECIAL CONTROLLED HUNT PROGRAM FOR MARKETING PURPOSES.

Special Controlled Hunt Rules:

1st Drawing:

8 each of elk, deer, pronghorn antelope "Super Hunt" tags
1 moose "Super Hunt" tag
1 "Super Hunt Combo" (including 1 each of elk, deer, pronghorn antelope, moose)
Application period Aug 11 to May 31
Applications received by May 31
Drawing Jun 15 [or Monday closest to]

2nd Drawing:

2 each of elk, deer, pronghorn antelope "Super Hunt" tags
1 moose "Super Hunt" tag
1 "Super Hunt Combo" (including 1 each of elk, deer, pronghorn antelope, moose)
Application period Jun 1 to Aug 10
Applications received by Aug 10
Drawing Aug 15 [or Monday closest to]

Application Fees:

	<u>Current</u>	<u>Proposed</u>
1 "Super Hunt"	\$6.50	\$4.95
6 "Super Hunt"	\$26.50	\$19.95
13 "Super Hunt"	\$51.50	\$49.95
1 "Super Hunt Combo"	\$21.50	\$19.95
6 "Super Hunt Combo"	\$101.50	\$99.95
13 "Super Hunt Combo"	\$201.50	\$199.95

The motion carried unanimously.

MISCELLANEOUS

Presentation to Potlatch Corporation

Chair Hadley presented a plaque and picture of a White-tailed to Deer Dennis Murphy of Potlatch Corporation in recognition of Potlatch's continued efforts to provide access to lands for hunting and fishing. Mr. Murphy stated that the Department is a perfect partner in Potlatch's Forest Legacy project, which began three years ago; \$30,000 of Access Yes funds helped purchase an easement of 23,000 acres. This is a permanent commitment to allow public access. Potlatch is planning to add 20,000 acres in 2005 near Micah Creek and hopes to add another

20,000 acres under a conservation easement in 2006, which would total 80,000 acres in the St. Joe Basin.

REPORTS

Senator Crapo's Elk Collaborative

Cal Groen introduced Mitch Silvers, Regional Director from Senator Crapo's office, who commented on the diversity of the working group and their dedication to reaching consensus. Mr. Groen presented a history of elk in the Clearwater and discussed the management changes and actions that have been implemented to assist in restoring the elk population (Appendix 37, Exhibit 44). Mr. Groen noted that the Department and Commission have been aggressive in addressing the elk situation by adjusting hunting seasons for elk and elk predators (lions and bears) and managing for the benefit of the elk population rather than managing for revenue.

The decline of the elk population in the Clearwater resulted in a severe negative impact on the economy, and citizens have been active in a number of task force and advisory committee efforts to address the problem. The 1998 Clearwater Initiative included citizens, timber industry, outfitters, and land managers. However, those efforts did not include the tribes and environmental groups. Senator Crapo brought all the groups together in the Collaborative, which has held 15 meetings from April 2003 to April 2004. Department staff participated in an advisory role and provided technical support to the delegates. Mitch Silvers handed out the Collaborative's Final report and consensus recommendations to recover elk (Appendix 37, Exhibit 45).

Jay Crenshaw, Regional Wildlife Manager, presented an overview of the consensus recommendations proposed by the Collaborative. Jay outlined the recommendations that fall under the Department's purview and the Department's response/reaction to those. The broad categories include habitat restoration, game and population management, and predator management. The Department will work closely with the Forest Service on burning and habitat disturbance and will explore other partnerships and funding opportunities to address the recommendations.

Commissioner Irby commented that the Region has been working hard to stabilize the population. The biggest problem has been a lack of initiative by landowners to improve habitat, and it is important to move forward with a consensus on the Collaborative's recommendations to give Senator Crapo leverage in working with those groups. He noted that the Department of Lands, Potlatch, and the Corps of Engineers have been supportive in habitat improvement efforts. The Commissioner expressed concern regarding how to reach the burning goals and the reluctance to work on winter habitat. The Commissioner also asked Mr. Silvers to elaborate on what Senator Crapo will do if the Commission supports the recommendations.

Mitch Silvers commented that the Forest Service has been responsive to finding ways to incorporate the recommendations in their forest plans. The Senator's Collaborative provides the Forest Service with an opportunity to accomplish what they want with the direction and support

of a citizens group. From an overall perspective, having a diverse group of citizens agree on the recommendations provides an opportunity for the Senator to address ESA reform on a national level. He wants the language to be applied as Congress intended. He also wants to use the Collaborative process for other issues to allow citizens to be involved and solve problems. Mr. Groen commented that the Department will be pushing for as much forest disturbance as possible.

04-79 Commissioner Irby moved and Commissioner Wheeler seconded a motion TO ADOPT SENATOR CRAPO’S ELK COLLABORATIVE RECOMMENDATIONS ON PRESCRIBED BURNING, WILDFIRE, AND LOGGING ON THEIR FINAL CONSENSUS RECOMMENDATIONS FOR THE CLEARWATER AND NEZ PERCE FORESTS. The motion carried unanimously.

Commissioner Wheeler asked if a similar approach might work for the Mule Deer Initiative and if it could succeed without a “sponsor” like Senator Crapo. Mr. Groen responded that the Department has enough experience to put together a similar effort.

LEGISLATION

The Commission picked up the discussion on the need to reach consensus on the proposed fee legislation and the need to appoint a legislative subcommittee to work through issues in the upcoming session.

04-80 Commissioner Watts moved and Commissioner Wheeler seconded a motion TO SET ASIDE FOR THIS FISCAL YEAR THE INCREMENTAL FEE INCREASE PROPOSAL AND THAT THE COMMISSION AND DEPARTMENT CONTINUE TO CONSULT WITH SPORTSMEN, SPORTSWOMEN, AND LEGISLATORS SEEKING SUPPORT FOR A 13.7% FEE INCREASE PROPOSAL AND DISCUSS PROGRESS IN THE DECEMBER MEETING. The motion carried in a unanimous vote.

Commissioner Power commented that the 13.7% is just a catch-up increase and the Department will need to come back again next year or the year after. That needs to be part of how the proposal is communicated. He also commented on how the necessary budget cuts will affect important projects such as the Mule Deer Initiative. Commissioner Wheeler pointed out that the revised budget for the Governor’s office will point out what will happen to Department programs if the increase is not approved. The revised budget will be sent out to Commissioners before the December conference call. Commissioners noted that it is important to communicate the Department’s successes such as Access Yes!, fleet management, and the elk collaborative.

Chair Hadley recommended Commissioners Wheeler and Watts for the subcommittee and agreed to participate as well.

Commissioner Gibbs raised a concern as to how Commissioner Watts, who is a professional lobbyist, may be perceived by legislators? Commissioner Watts explained that he gave up

lobbying for the Outfitters and Guides Association when he was appointed to eliminate any appearance of conflict of interest. He feels he is viewed by the Legislature as wearing many hats including Fish and Game. He feels that it benefits the Department as he is able to address legislators concerns and questions about the agency in his frequent contacts with them while conducting business.

MISCELLANEOUS

04-81 Commissioner Wheeler moved and Commissioner Irby seconded a motion TO CREATE A SUBCOMMITTEE TO LOOK AT ALL METHODS OF SELECTION FOR CONTROLLED HUNT PERMITS WITH AN EMPHASIS ON RETENTION AND RECRUITMENT ALONG WITH THE IMPACT THOSE METHODS WOULD HAVE ON THE DEPARTMENT FROM A FINANCIAL AND MANAGEMENT STANDPOINT. The motion carried in a unanimous vote.

Chair Hadley appointed Commissioners Wheeler, Wright, and Power to the subcommittee.

RULES

Non-biological Rule Issue Scoping

Brad Compton, provided an overview of the non-biological rules that will be discussed at the January meeting. Non-biological rules are those that aren't related to bag limits, season length, permit levels, etc.

Two main issues are being considered:

1) The use of all-lead, full-bore-width conical bullets in the traditional muzzleloader hunt. From a ballistics standpoint, there is almost no difference between conical bullet and round balls. Proponents contend that conical bullets achieve deeper penetration and a larger wound channel and is a more humane kill. Conical bullets don't effect range or accuracy. The Department will scope the issue with the public during December and come back with public input and a final recommendation at the January meeting.

2) In 2000, Commissioners adopted outfitter allocated controlled hunts for deer and elk. Those who draw these hunts must hunt with an outfitter. There have been problems including when a hunter draws and can't find an outfitter, and when people who draw are unaware of Idaho's outfitter system and don't realize they can't hire any outfitter, it must be one designated for that area. Staff have been working with Jake Howard of the Outfitters and Guides Licensing Board and Grant Simonds. They have a recommendation to scope with the public which would require potential applicants to have an agreement with an outfitter before they apply. Staff will bring back a recommendation in January.

Commissioner Gibbs has been contacted by archery hunters who would like the Commission to consider expanding broadheads. He requested a short, objective presentation on the issue in January. Mr. Compton responded that there is a great deal of new technology in weapons, and people want to take advantage of new technology. The Department has worked with archers to

look at existing rules, most recently last January. Both times, organized archers and Idaho State Bow Hunters did not want to change.

Commissioner Watts has been approached about the use of 2-power scopes with traditional muzzleloaders. Mr. Compton does not have research on how the use of scopes changes the effectiveness of a traditional muzzleloader. He gets a few requests from people who have eyesight problems and want to use a 1-power scope. He pointed out that a request to use a scope on a traditional muzzleloader is a request to increase the success rate.

The question is whether to promote weapon technology or opportunity. Commissioner Wheeler commented that people would rather limit technology and have opportunity. The request to review the use of conical bullets is a direct request from a constituency group that is not in conflict with Commission direction and omitting their use was an error. Four years ago, the Commission considered all weapon technologies and decided to maintain the intent of traditional muzzleloader hunting.

The Commission reached consensus to have the Department scope the two issues for recommendations at the January meeting.

REPORTS

White-Tailed Deer Plan

Brad Compton presented the Department's recommendation on a White-tailed Deer Management plan for 2004-2015 (Appendix 37, Exhibit 46). He recognized Jim Hayden and the Region 2 staff for their work on the Plan. Mr. Compton presented a white-tailed trophy killed in November 1967 in Kootenai County and donated to Fish and Game. Region 1 has donated the trophy to Headquarters.

Mr. Compton summarized past plans, the needs today and over the last few years, the process of putting the current plan together, and the plan's recommendations. The current plan elevates the Department's efforts on white-tailed deer as they continue to expand. White-tailed deer are 40 percent of the statewide deer harvest. The Department's overall goal is to maintain high hunter satisfaction levels. The proposed statewide plan would require hunters to choose between a general tag or a white-tailed deer tag. The issue of aligning seasons is being discussed, but the Panhandle and Clearwater would have roughly the same seasons.

The Commissioners discussed the opposition to eliminating the Clearwater tag heard at the public meeting Wednesday night. They discussed a number of options including establishing deer zones similar to elk zones. Mr. Compton explained that action wouldn't make any gains biologically and wouldn't address what the public wants.

Commissioner Irby expressed his view that the proposed plan is not good for everybody, and he felt strongly that it was important to maintain the integrity of the current plan. He was concerned with trying to fix something that isn't broken.

Mr. Compton summarized the data collected from the public survey sent out to 2,100 hunters. The Department received a 70 percent response. There was almost 2 to 1 support for creation of a white-tailed deer tag. The plan won't impact Southern Idaho hunters as they will pick a general deer tag. The majority of hunters in the Panhandle would pick a general tag over a white-tailed tag, but a significant number would purchase a white-tailed tag. Clearwater hunters were split evenly on buying general vs. white-tailed tag. If those numbers prove out, that would take about 40% of the hunters out of the November hunt in the Clearwater. One of the plans goals is to control an influx of hunters late in the season. The Department also conducted a web-based survey and held 32 Regional meetings.

Commissioner Gibbs commented on behalf of the Southeast Region that the proposed plan would have little impact and it was an issue for those Commissioners who had the most interest to decide.

Commissioner Power noted that while the issue is not currently significant in the Salmon Region, there are a significant number of that region's hunters who get Clearwater tags. He felt it was important to look long-term at how it would impact hunters around the state while limiting any negative impact on the Clearwater Region.

Commissioner Irby reiterated his concern that the current Clearwater tag is working. He felt the Region had made significant inroads with landowners. The new plan does not ensure the same number of hunters, and people in the Region have petitioned him to keep the Clearwater tag.

Chair Hadley noted that there was little comment from the Panhandle Region but that the new plan does address some concerns. It allows more hunter mobility, but limits hunters coming north. The plan creates greater flexibility and offers more opportunity for the Panhandle Region.

Mr. Compton pointed out that the plan has been discussed in the Clearwater Region for the past three years and has been discussed in other regions over the past year.

With respect to landowner concerns, Commissioner Irby explained that there has been an influx of hunters from Southern Idaho coming up into Idaho County to take advantage of white-tailed buck hunting in late season and some hunters did not respect private land. The Clearwater tag was created to reduce that hunter influx. He stated his concern that landowners might have the impression the Department is betraying them if the Clearwater tag is eliminated. The random survey did not solicit comment specifically from landowners.

Commissioner Wheeler stated that he was reluctant to force something on a Region where the decision would have such an impact.

The Director stated that white-tailed deer deserve recognition as a different species. The proposed plan was created in response to social pressures on the Clearwater deer tag, and the Department has

been struggling with it since. As long as you have quality bucks, you will have trespassers. He explained that the structure of the proposed plan has the potential to solve more problems than it creates. It recognizes the difference in species, which allows the Department to structure season dates, times, lengths, weapons choices, to get to the objective for that species.

Commissioner Watts asked about the possibility of creating separate tags for white-tailed deer vs. mule deer. Mr. Compton explained that was one of the options considered; however, there was more public support for the proposed plan than for a complete separation of species. He expressed his belief that in the future, the need for precise management by species will lead to managing them separately.

Jim Unsworth commented that the issue has been a difficult one for the Wildlife Bureau, and staff has traveled hundreds of miles and spent hours of efforts. More information will not change the effort.

04-82 Commissioner Power moved TO ADOPT THE WHITE TAILED DEER PLAN. The motion died for lack of a second.

04-83 Commissioner Irby moved and Commissioner Wheeler seconded a motion TO REJECT THE WHITE-TAILED DEER PLAN.

The Commissioners discussed an alternative option to adopt a white-tailed deer tag and a mule deer tag. The Chair noted that option was not scoped with the public. The Director stated that if the Commission could not accept the Plan as constructed, to reject it and give staff instruction on what to do in the future as to whether to try again or leave things as they are.

Commissioner Wheeler commented that opposition to the plan was not related to the quality of the work. However, he felt it was difficult to vote against a fellow Commissioner whose region would be directly impacted and who had a strong stance. He suggested that the Department needs to find a solution acceptable to people in the Clearwater. The Director pointed out that people in the Clearwater are not going to give up the Clearwater Deer Tag, so that is not a resolvable issue.

Commissioner Watts noted that the data shows the majority of people surveyed in the Clearwater support the Plan. Commissioner Wright commented that the Plan goes beyond the Clearwater tag and is about managing white-tailed deer and the Department needs a plan.

Commissioners Wheeler, Irby, Gibbs, and Wright voted in favor of the motion. Commissioners Watts, Power, and Hadley opposed the motion. The motion carried.

Commissioner Irby commented that he would like the opportunity to address the issues and find solutions.

Mule Deer Initiative Update

Brad Compton introduced Shane King, Wildlife Biologist, who is coordinating the Department's Mule Deer Initiative. Mr. King presented an update on predator management, habitat improvement efforts, and public involvement in the process (Appendix 37, Exhibit 47). He explained that the initial focus of the initiative is the Southeast Region based on need and efficient use of resources. The intent is that the effort will spread to the other Regions over time. Currently all the Regional Supervisors in the state receive information and updates on the Initiative.

Mr. King asked for the Commissioners support, enthusiasm, and patience to make the effort successful. He stressed that it takes time to stabilize populations because it takes time to make the large-scale habitat changes necessary. He also commented that there may be some difficult issues to address and the same type of quandaries the Commission has experienced with the white-tailed deer plan.

Efforts are being made to include all agencies and groups impacted by the Initiative. Commissioner Wright commented that Mr. King has been very inclusive and that sportsmen's groups and ranchers have been pleased with the effort.

Commissioner Wheeler requested that in the next meeting the Department bring forward some strategies to address questions such as predator management and funding so they can see the roadmap.

The Chair asked Commissioners to let Mr. King know of other contacts he should make regarding the Initiative. She asked Mr. King to make Commissioners aware of trouble spots so they can assist.

MISCELLANEOUS

Executive Session

04-84 Commissioner Irby moved and Commissioner Watts seconded the motion TO HOLD AN EXECUTIVE SESSION, PURSUANT TO IDAHO CODE 67-2345((1) (b) and (f) PERTAINING TO LEGAL AND PERSONNEL MATTERS. The motion carried in a unanimous vote.

The session began at 6:08 p.m. and ended at 8:08. No official action was taken.

November 19, 2004

The Commission meeting convened at 8:05 a.m. with Commissioners Hadley, Watts, Irby, Gibbs, Wright, Power, and Wheeler present.

The Chair recommended that the Commission send a thank you to the Panhandle Region for the donation of the white-tailed deer trophy.

REPORTS

Disabled Hunter Opportunities

Steve Barton provided an overview of the types of disability licenses and permits available. According to Idaho Code (Senate Bill 1600 passed in 1999), the Department relies on the Social Security Administration's determination that a person is disabled and financially disadvantaged due to the disability. In the same section of code are Disabled American Veterans and railroad retirement disability designations. Mr. Barton handed out a table of license sales for these categories (Appendix 37, Exhibit 48). The Department continues to issue more of these each year.

A handicapped vehicle hunting permit allows a person to use a motorized vehicle for hunting but does not allow an individual to shoot from or across a roadway. Mr. Barton provided the Commission with a table showing the number of hunt from a vehicle permits by Region for the past six years (Appendix 37, Exhibit 49). People who have these permits may or may not have a disabled hunting license. The hunt from vehicle permit has a different definition and criteria. If someone has a "handicapped" designation from DOT, then the Department accepts that designation.

The Department does hear from a small minority on the question of disabled licenses. There are no suits or pending litigation from the American's with Disabilities. The Department recently contacted the Forest Service to explore working together to clarify opportunities for the disabled to hunt or fish and to provide constituency.

Chair Hadley commented that there are people who are disabled but don't meet the financial criteria and want a disabled permit. She suggested the Department look at ways to recognize the disabled status without the financial hardship or provide a controlled hunt for the disabled. The Department will consider changing the category labels for the licenses and permits and work to better explain the offerings and who qualifies for which categories.

The Department recently received a donation from the Disabled Veterans of two waterfowl blinds donated for use by the disabled.

Strategic Plan

Tracey Trent, Chief, Bureau of Natural Resources provided an overview of progress toward finalization of the Strategic Plan – the Compass and introduced Michele Beucler, Staff Biologist, who presented survey information on Idahoans' Opinions of Wildlife and Wildlife Management (Appendix 37, Exhibit 50).

Commissioners expressed concern that the number of individuals hunting and fishing continues to decline even though there is support for those activities and a high interest in wildlife issues. That is significant from a budgeting perspective in that hunters and anglers fund the Department.

The Director commented that some individuals are concerned that the Department conducts and participates in these surveys. However, it is important to know who your customers are, how they react, and why. Surveys such as these also reinforce that people in Idaho care passionately about wildlife. The Department provides many more opportunities than other agencies for people to be involved in the process.

Mr. Trent provided an overview of the Strategic Plan development process that began three years ago by hiring Steve McMullin from Virginia Tech to assist in developing the plan and the public involvement component. The Department wanted to involve the public early and public input efforts included focus groups, interviews with commissioners and legislators, and public meetings and workshops where the public helped develop goals. A random survey of 7,000 citizens was also conducted, and 3,500 responses were received. A list of 1,000 goals developed by the workshop participants was analyzed and categorized; the planning team formulated the goals and objectives from that list. The Plan was built on response and suggestions from the public.

In the past, the Department's strategic planning process was focused more on operating policies and lacked public input. Other planning efforts include the strategic plans stipulated by the Legislature for all agencies and the Department's stockholders' report, which is a summary of the agency's budget. In 2002, a team of 25 staff representing all Bureaus and Regions participated in a Comprehensive Management Systems course. This approach to planning involves the public so that goals and plans are aligned with what the public wants.

Commissioner Wheeler asked for clarification of how the McMullin survey was used in the makeup of the final document. The survey helped confirm and quantify the issues and provided a guideline as to what the issues were and how important they were to the public. The Director commented that while the survey was an expensive tool to get information, it was important to find out where there was and wasn't alignment between thoughts of commissioners, legislators, the Department, and the public. Those are the pieces the plan tries to align. The study helped frame and prioritize the issues but was just a part of the process. Commissioner Wheeler commented that some people perceived that the Plan was driven by the McMullin survey.

Commissioner Watts commented that it is helpful to know that some of the Plan's content, which does not seem to be supported by the McMullin data, came from the qualitative aspects of the process. There are some good things in the Compass and a lot of things are already being done. He suggested creating a subcommittee of Commissioners and staff to fine tune the final document so that the Commission can approve the Plan at the January meeting.

04-85 Commissioner Watts moved and Commissioner Gibbs seconded a motion TO APPOINT A SUBCOMMITTEE OF COMMISSIONERS AND STAFF TO WORK ON

THE PLAN AND BRING A FINAL PLAN TO THE COMMISSION AT THE JANUARY MEETING. The motion carried unanimously.

The Chair appointed a subcommittee consisting of Commissioners Watts and Power.

The Director brought to the Commission's attention that Senator Crapo sent a letter of appreciation for adopting his recommendations for the Elk Collaborative.

Trophy Species Status Report

Dale Toweill, presented a status report on trophy species (Appendix 37, Exhibit 51). Every two years, the Department sets quotas for moose, bighorn sheep, and mountain goats. Recommendations for regulations on trophy species for the next two-year period will be presented at the January meeting.

There has been consistent growth in the number of applicants for trophy species permits over the past 5 years. Overall, the growth rate has been 16% -- the growth rate among resident hunters has been 8%; and the growth rate among nonresident hunters has been 107%. Trophy species drawing odds have been consistent over the past decade for bighorn sheep and mountain goats, since the nonresident quota is limited to no more than 10% in any hunt, and limited to no more than 10% of the total permits available. Moose drawing odds have increased for both resident and non-resident hunters. Resident moose drawing odds now exceed 20%, and nonresident odds exceed 15%. Nearly all nonresidents apply for bull moose permits.

Moose: The number of moose permits offered in Idaho has doubled since 1990. Moose are hunted in more than half of the state's land area and continue to increase. The number of permit applicants is growing rapidly. Management issues for moose include the allocation of leftover permits, the increasing threat to people and pets by residential moose, and the decrease in the number of large bulls. If the state wants to provide bigger bulls, the Department will need to take action, e.g. reduce the number of permits or shorten the season. The Department will be scoping moose hunters on their preferences. The results will be ready for the January meeting.

Commissioners discussed looking at recommendations to manage for trophy moose. To be sure there are big bull moose in every unit, the Department needs to cut permits by at least half. There are more hunters who want to hunt moose for meat, the experience, and the trophy than those who want to hunt only for the trophy. If the Department managed some units for trophies, then hunters could identify what kind of hunt opportunity and harvest success they wanted.

Commissioner Power cautioned that the Commission needs to keep in mind what happens to drawing odds if you cut the number of permits in half for trophy hunts, especially in light of the current discussions regarding preference points. Commissioners agreed to consider staff and public input and look at possibilities of trophy hunts for moose.

Bighorn Sheep: Permits are allocated based on the number of legal rams in each hunt area, with allocations not to exceed 20% of the legal rams. Permits have declined, as diseases have affected sheep, but hunter success has remained constant at 50% or slightly better. Currently, annual harvest exceeds 40 rams. Populations are increasing in Hells Canyon and Salmon River and on the newly transplanted Jim Sage herd. They are stable in Owyhee County and the Lost River Range near Mackay. Supplements are planned at the end of November for Jim Sage, Custer, and Lemhi Counties. Idaho has approximately 2,000 Rocky Mountain bighorns and about 1,500 California big horns statewide, but herds are surveyed only once every 5 years. In 2003 and 2004, Idaho offered 22 hunts and 74 permits. Applicants have about a 5% success rate. There are far more non-resident applicants than residents. Number of permits has decreased over the last 15 years, but success rates have been constant. Management Issues include the low number of large, older rams, which is due to the die-offs in the early 1990s, and led to the decreased number of permits. Populations are recovering.

Mountain Goats: The number of mountain goats in Idaho has declined from over 3,000 in 1995 to about 2,500 in 2004. The number of permits is based on the total number of adult mountain goats in herds that number more than 40 adults animals, with the annual number of permits not to exceed 5% of adult animals. The number of permits offered for mountain goats has declined steadily over the past decade, from 93 permits in 1990 to 56 in 1999. However, part of the decline has been associated with lack of survey data. Recent surveys in central Idaho have revealed that some herds are currently doing well, and mountain goat permits should increase in 2005-2006. Hunter success usually averages 80% or more annually. Survey results for goats are not very reliable, and surveys are difficult due to cost, scheduling around weather, and terrain. . Goats are much more mobile than formerly believed. Management issues include human disturbance in winter range (heli-skiing and snowmobiling), disease, and the number of large males who impact winter survival odds for their herd.

Income from Trophy Species is approximately \$750,000 per year.

White-Tailed Deer Plan

Commissioner Hadley referenced the White-Tailed Deer Plan discussion of the previous day and expressed that she and Commissioner Irby needed to spend some time on the plan.

04-86 Commissioner Gibbs moved and Commissioner Irby seconded a motion TO RECONSIDER THE WHITE-TAILED DEER PLAN. The motion carried in a unanimous vote.

Hunter Orange

Roger Fuhrman, Chief, Bureau of Communications presented information on the issue of requiring sportsmen to wear hunter orange (Appendix 37, Exhibit 52). This issue has been considered by the Commission previously and is being revisited as the result of four hunter

fatalities in 2004. The use of hunter orange likely would not have made a difference in two of these cases; the others were two-party incidents.

Records going back to 1979 show that of the 200 accidents recorded, half were the result of careless use of firearms. Of the remainder, the majority of incidents were due to hunters being mistaken for game, and in all but two cases, the victim was not wearing hunter orange.

Forty states currently require sportsmen to wear hunter orange. In Idaho, legislation has been considered in the past but did not gain sufficient support. In 1986, the Fish and Game Commission proposed a regulation that would have required wearing hunter orange; however, the proposal was not pursued. Instead, the Commission passed a resolution that encouraged people to wear hunter orange (Appendix 37, Exhibit 53). The resolution also directed the Department to increase awareness of the benefits of wearing hunter orange through Public Service Announcements and hunter education) and to encourage hunter education graduates to wear hunter orange by giving them a hat or vest. The Department has been giving hats. It is looking at giving a vest instead, but the vests are more expensive.

If Commissioners were to approve a proposed regulation, it would go to the Governor's office for review before being sent to the legislature for approval. This issue would fall into non-biological rule making and would be considered in January. Commissioner Wright asked for additional information on research regarding animals' ability to see red and orange. The Director suggested that the Department gather public input informally through existing hunter surveys before proceeding. Commissioners expressed support for the existing 1986 resolution and agreed that the Department should informally gather public opinion on the issue.

MISCELLANEOUS

Appointment of Commission Representatives to WAFWA, PSMFC, and IFWF

The Commissioners concurred on the following appointments: Commissioner Wright will continue to participate on the Idaho Fish and Wildlife Foundation Board; Commissioner Watts will be the Commission representative to the Western Association of Fish and Wildlife Agencies (WAFWA); Commissioner Wheeler will continue as the representative to Pacific States Marine Fisheries Council (PSMFC).

Tentative 2005 Commission Meeting Calendar

The Commissioners set tentative meeting dates for 2005. The Annual Meeting was scheduled for January 19-21, 2005. The quarterly meetings were tentatively scheduled for May, July, and November. In addition, the Commission plans to meet in March and August. Workshop sessions will be held as part of each meeting. The calendar of meetings will be finalized on the December conference call.

WAFWA Survey

A copy of this survey was mailed to Commissioners. The survey was sent to a random sample of 3,000 Idahoans in the state. Michele Beucler explained that all 19 states in the Western Association of Fish and Wildlife Agencies were involved and the project was done with multi-state grants.

It has generated some controversy. Some recipients were concerned that hunting was referred to as recreation and that the survey could be used as an advocacy tool to shift the Department's focus to nongame programs. Commissioner Watts raised the concern that the survey does not use terms consistently, e.g. wildlife and animals and wild animals seem to be used interchangeably. Ms. Beucler explained that the survey questions have been refined over years of research. She offered to get references on how that has occurred.

Commissioner Wheeler stated that people are uncomfortable because they don't understand the terms, methodology, credentials, and motivation behind surveys such as this. Commissioner Wright commented that surveys and studies are being done by groups who have strong self-interest and that people need to know what the incentive is for the groups conducting the surveys. Ms. Beucler reiterated that this project was designed by and being conducted for state wildlife agency personnel, not an advocacy group.

The survey was sent to a random sample, which was purchased from a third party.

REPORTS

Region 2 Nongame Program

Joel Sauder, Nongame Biologist, presented an overview of the Clearwater Region's nongame program (Appendix 37, Exhibit 54), highlighting the role that partnerships have played in accomplishing the goals of the program. Nongame Funding comes from 4 primary sources: State Wildlife Grants, Wildlife License Plates, Tax Check Off, and Private donations. Over 80% of the wildlife species in the state of Idaho fall into the category of nongame. Region 2 is involved in projects including inventory and monitoring, research and management, education and recreation.

Mr. Sauder highlighted some of the projects and partnerships in the Clearwater Region: Snow-track surveys are a statewide project to improve information on the populations of forest carnivores. The target species are Lynx, Wolverine, Fisher and Marten. Biologists from Potlatch and the Army Corps of Engineers have participated in the placing and running of these routes.

The Region is working with volunteers from the University of Idaho Student Chapter of the Wildlife Society to conduct surveys of Harlequin Ducks.

The Northern Region Landbird Monitoring Project is a long-term research collaboration between Region 1 of the Forest Service and the University of Montana to show relationships between landbirds and their habitats and provide information to managers on the effects of land management practices.

The MAPS (Monitoring Avian Productivity and Survivorship) banding project is working to discover factors that influence the productivity and survivorship of Neotropical songbirds. Data collected as a part of this project contribute to a international database. Funding for this project comes entirely from Potlatch Corporation.

The Region's educational efforts include International Migratory Bird Day, a booth at Moscow Farmers Market, and numerous personal contacts. The region is also partnering with local Audubon groups on the Northern Idaho loop of the Idaho Bird Trail to provide information to bird enthusiasts as to where and when to go and see species of special interest.

Review of Mainstem Biological Opinion

Sharon Kiefer, Anadromous Fish Manager, presented an update of NOAA Fisheries' draft 2004 biological opinion for the Federal Columbia River Power System (FCRPS), which is the eight dams on the Columbia and Lower Snake River, also referred to as the mainstem (Appendix 37, Exhibit 55).

NOAA's Biological Opinion is the product of a section 7 consultation in which federal agencies consult with the overriding federal manager when an action they are taking or funding may have a negative impact. If the activities jeopardize the listed species, then NOAA offers up an RPA, or reasonable and prudent alternative. The action agencies going to NOAA Fisheries are Corps of Engineers, Bonneville Power Administration, and the Bureau of Reclamation.

The 2004 biological opinion is a fundamental change in the application of the consultation.

Ms. Kiefer went through the history of the consultation on the FCRPS. Initially there was a no jeopardy opinion, and the Department entered into litigation in 1993. They revised some technical analyses resulting in jeopardy opinions. Over time, there has been some "tweaking" of the mainstem corridor to make it more fish friendly.

The RPA for the 2000 BiOp was very broad in scope – it was a quasi-recovery document. NOAA determined they could not make big enough changes in the hydro system to offset the jeopardy of the hydro system, so the RPA included factors outside of the system -- harvest, habitat, and hatcheries. The 2000 BiOp also laid out a roadmap for future decision making. The State of Idaho supported the 2000 BiOp but submitted state comments, which focused primarily on technical concerns.

The 2000 BiOp did have forward-looking perspective on persistence and survival as it would affect recovery. There were biological performance standards in place. The BiOp got a lot of media and

legal attention because NOAA identified not only how they were going to judge if the BiOp was meeting expectations, but also if it wasn't what the comeback would be. The 2000 BiOp has a history of litigation with the primary issue being the use of offsite measures to mitigate for the jeopardy of the hydro system. In 2003, the judge granted a remand and let stand the 2000 BiOp and told NOAA to fix it.

NOAA then brought out an entirely new opinion. The final BiOp should be submitted by the end of November. The conclusion of the new BiOp is that the operation of the federal hydroelectric system does not result in jeopardy to species. The action agencies are not being held to any standards to maintain a recovery trajectory. It maintains status quo and provides no obligation to try to maintain a recovery trajectory.

Their justification for this opinion is that NOAA Fisheries can't consult on things outside their authority, i.e. the presence of dams. They can consult on the operation of the federal hydro system. This BiOp focuses on juvenile survival based on their experience in the operation of the hydro system, which does not account for the full life experience. NOAA did say baseline mortality is significant.

The Department, the Office of Species Conservation, and others participated in coordinated state comments. From a legal perspective, Idaho supports the 2004 BiOp's framework and no-jeopardy determination. The no jeopardy conclusion does not mean that the dams are fixed relative to recovery goals, and it was not the intent of the opinion to promote recovery. NOAA has made a clear legal distinction between what can be covered in consultation and what needs to be addressed in recovery planning.

Some of the work done to benefit and improve survival is not reflected in new proposed action or the 2004 BiOp. There was a lot of funding tied to the prior opinion in order to avoid jeopardy. We won't know how the new opinion will affect funding commitments until the final opinion is released.

Legal challenges to the 2004 BiOp are expected. There will be much more emphasis on recovery planning. However, the ESA does not offer a great deal of guidance on recovery. The Department will continue to use in-season hydro management opportunities to gain survival benefits. The key legal issue that will be considered is whether or not the federal action is defined as the operation of the dams or their installation. The courts could say that Congress decided on the initial action and all NOAA can address is operation, and the BiOp will stand. Or the courts could go back to the authorization of adding the dams, and the BiOp will not stand.

NOAA Fisheries is also currently engaged in two other major policy issues – a new status review and the hatchery listing policy. If the Commission would like to hear about those, they can be added to the agenda.

Virgil Moore mentioned that the 2003 Idaho Sport Fishing Economic Reports are finished and each Commissioner received a binder with the information.

Election of Chair and Vice Chair

04-87 Commissioner Wright moved and Commissioner Wheeler seconded a motion TO CLOSE NOMINATIONS FOR COMMISSION CHAIR AND VICE CHAIR. The motion carried unanimously.

04-88 Commissioner Irby moved and Commissioner Wright seconded a motion TO APPOINT COMMISSIONER MARCUS GIBBS AS CHAIR AND COMMISSIONER JOHN WATTS AS VICE CHAIR FOR 2005. The motion carried unanimously.

Adjournment

The Commission meeting adjourned at 1:48 p.m.